

1 June 2011

Mr Clement Leung JP
Director of Food and Environmental Hygiene
44/F Queensway Government Offices,
66 Queensway,
Hong Kong.

Your Ref (2) in FEHD 172/ls 571/11

Dear Sir,

Food Licensing Officers causing harassment & acting beyond their legal authority

I refer to your interim reply dated 26 May 2011 and note a suggestion that a full response may not be available promptly "due to complexity of the case". It is my opinion that there is no aspect of this case which is complicated unless your department is unnecessarily seeking to make it so. The solution is simply a question of instructing your officers not to carry out actions which go beyond those which are sanctioned by law.

Many people wish to eat outdoors and this is demonstrated all over Hong Kong when during the evenings, after most of your officers have gone off-duty, street-side restaurants and "take-away" food stalls expand their businesses onto nearby public pavements and open spaces. And it is also a common site for customers to be sitting in the company of their pets at these perhaps technically unsanctioned extensions. It is time for your department to become attuned to this reality and appreciate that is what most people of Hong Kong want and find acceptable

I include as an attachment a few photographs taken recently at seafront restaurants in Sai Kung demonstrating that customers having dogs with them at these outside locations is not problem and your department you should not be seeking to prevent this. Similar photographs could have been taken in numerous districts of Hong Kong.

Meanwhile I return to the main issues in my original letter. After resisting changes for many years, your department (having been pressured by the tourist industry) has very recently but reluctantly acknowledged that eating outside is not the health hazard which your department has during the past portrayed it to be. The public have overwhelmingly demonstrated that they have a preference for dining outside. This why street-side tables are appearing in thousands all over Hong Kong and it seems that your officers know they can do little to stop this trend. As the responsible department head you should be moving to amend and remove the food regulations which technically restrict this instead of "burying your head in the sand" and pretending that this is not occurring.

I next return to the allied aspect of customers with dogs. Like it or not, you have to face the fact that this is **not illegal** because the law is quite clear that restrictions concerning dogs are applicable only to dogs taken **onto** licensed food premises. Simply because you have lost control and face mass civil disobedience over the placing tables outside food shops

does not provide you with a pretext to twist the law and attempt to regulate dogs in “non-sanctioned” restaurant extensions.

Outside seating areas, be they technically “sanctioned” or “unsanctioned” and (as is obvious) in many instances now plainly “tolerated” by your department, are **NOT ON THE LICENSED PREMISES** and your department has no legal powers to arbitrarily extend regulations to areas adjacent to the licensed areas. **This should be made clear to your staff by clear policy guidelines.** Your failure to do this is placing your junior frontline staff in an intolerable situation by requiring them to “enforce” ultra vires instructions.

You may care to note that in Europe and N. America the restrictions on dogs applies only to preventing dogs being taken into the **food preparation areas**, leaving the option of permitting dogs to be present in seating areas within licenses premises solely the discretion of the license holder. No major overseas authorities (with the exception of a few American county-level licensing authorities)* even attempt to regulate dogs taken to outside seating areas.)

(*Note: Those that do, merely make dog-owners from cleaning up any mess made by a dog and prohibit dogs from eating off the tables and restaurant’s utensils)

You could put the whole problem to bed by introducing a small legislative amendment to regulation 10 B so the restriction on dogs applies only to “*the food preparation area*” rather than the current “*licensed food premises*”, which is line with most overseas legislation.

The ball is in your court.

Yours faithfully,

Peter A. Crush
Digitally signed by Peter A. Crush
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P. A. Crush

c.c. Hon Mr Tommy Cheung Yu-yan SBS JP ,
Members of the Legco Panel on Food Safety
Chairpersons: SPCA, HKDR, Animals Asia Foundation,
Miss Amy Yung, Islands District Council
Jove Chan, Clerk to Legco Panel on Food Safety & Environmental Hygiene.

Scenes at Sai Kung Restaurants Saturday Evening (May 2011):



This situation is what Hong Kong people want and find acceptable.

What's your problem?

Dining Outside Overseas


CANADA



AUSTRALIA



USA



ENGLAND



HONG KONG



GERMANY



FRANCE

DINING IN RESTAURANTS/ CAFES
WITH DOGS WORLDWIDE
(& travelling on buses & trains)




WHY?



食物環境衛生署
Food and Environmental
Hygiene Department

離島區環境衛生辦事處
Islands District Environmental Hygiene Office
香港中環統一碼頭道 38 號海港政府大樓 6 樓 626 室
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Our Reference: (2) in FEHD 172/Is 571/11

Flat A, 1/F, Woodbury Court,
Parkvale Drive, Discovery Bay
P.A. Crush

26 May 2011

Dear P.A. Crush,

**Food Licensing Officers causing harassment &
acting beyond their legal authority**

I refer to letter on 19.5.2011 concerning the above subject.

The matter is receiving attention, and we aim to give you a reply as soon as possible. If this cannot be done **due to complexity of the case**, we will send you interim replies at appropriate intervals to keep you informed of the progress of the investigation. Meanwhile, if you have any enquiries, please contact Health Inspector, Ms TSANG Kam-sheung, at 2852 3142.

If, in the course of handling your request, this department considers it to be necessary, your request may be referred to other Government Department(s) concerned for parallel or follow-up action. If you object to the transfer of your personal data to other Government Department(s), please inform the aforementioned Case Officer, in writing or by telephone, within seven days of the date of this letter.

Yours sincerely,

(Peter TUNG)

for Director of Food and Environmental Hygiene